

3738  
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Docket No.: 21547-00275-US  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	
Cecilia Larsson et al.	:	
Serial No.: 09/743,762	:	Art Unit: 3738
Filed: May 14, 2001	:	Examiner: Matthews, William H.
For: Material for Bone Reconstruction	:	Atty Docket: 21547/00275

RECEIVED  
MAR 01 2004  
TECHNOLOGY CENTER R3700

**RESPONSE AND AMENDMENT UNDER 37 CFR § 1.111**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The following Amendment and Remarks are submitted in response to the Office Action dated October 21, 2003.

The Applicants thank Examiner William H. Mathews and SPE Corrine McDermott for their courtesy in conducting an interview, December 9, 2003, with Applicant's attorney.

An **Interview Summary** begins at page 2;

**Amendments to the Claims** are reflected in the **Listing of Claims** beginning at page 3;

**Remarks** begin on page 6; and

an **IDS** is attached on a separate sheet.

### **Interview Summary**

John A. Evans, Ph.D., Esq., attorney for Applicant, Examiner William H. Matthews, and SPE Corrine McDermott met December 9, 2003 in the office of SPE McDermott.

Claim 31 was discussed in view of its rejection under 35 U.S.C. § 103(a) over NGK Spark Plug Co. Ltd. (JP 2198560) ("NGK") in view of Cassidy et al. (US 6,280,474).

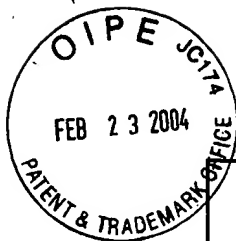
The discussion focused on the claim recitation: "wherein said composition forms a moldable, injectable mass upon admixture with water."

NGK discloses a ceramic composition that is formed by injection into a mold and fired at 1100°C thus forming a porous, "sintered compact." (Discussed in Remarks). Discussants agreed that the "sintered compact" is not "moldable" after being baked at 1100°C.

Cassidy discloses a device for mechanically anchoring broken bone. The device of Cassidy is not moldable or injectable via a syringe.

Agreement was reached, in principle, that language reciting that the present inventive composition is moldable or syringeable when emplaced in a bone site, distinguishes over the cited art. Agreement was not reached on the precise language.

A further review of the NGK reference, conducted after meeting with the Examiner, suggests that the NGK reference may have disclosed a syringeable composition. Although the machine translation of the Japanese language NGK document is difficult to parse, at page 16/19, the paragraph beginning "Moreover, especially the method of..." may relate to injection of the "sintered compact." In view of this possible interpretation, the Applicants withdraw any remarks as to syringeability in relation to the NGK reference. Applicants maintain their interpretation that Cassidy is not syringeable.



PTO/SB/17 (10-03)

Approved for use through 7/31/2006. OMB 0651-0032

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 290.00

**Complete if Known**

Application Number	09/743,762-Conf. #7301
Filing Date	May 14, 2001
First Named Inventor	Cecilia Larsson
Examiner Name	W. H. Matthews
Art Unit	3738
Attorney Docket No.	21547-00275-US

**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☒ Depos it Account:Deposit  
Account  
Number

22-0185

Deposit  
Account  
Name

Connolly Bove Lodge &amp; Hutz LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Cred it any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee  
to the above-identified deposit account.**FEE CALCULATION** (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	110.00
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	P etition to institute a public use proceeding	
1452	110	2452	55	P etition to revive - unavoidable	
1453	1,330	2453	665	P etition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	P etitions to the Commissioner	
1807	50	1807	50	P rocessing fee under 37 CFR 1.17(q)	
1806	180	1806	180	S ubmission of Information Disclosure Stmt	180.00
8021	40	8021	40	R ecording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))	
1801	770	2801	385	R equest for Continued Examination (RCE)	
1802	900	1802	900	R equest for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 290.00

**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

		Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =		18.00	
Independent Claims	-3** =			0.00
Multiple Dependent				

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

\*\*or number previously paid, if greater; For Reissues, see above

**SUBMITTED BY**

(Complete if applicable)

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Signature

Date

2/16/04